UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF IOWA

CHAPTER 7 In re:

Case No.

U.S. BANKRUPTCY COURT MORTHERN DISTRICT OF IOWA

RODNEY L.WRIGHT Debtor

L-91-01588-C

BARBARA A EVERLY. CLERK

JOHN W. VAN DYKE, JR., **Plaintiff**

٧.

RODNEY L.WRIGHT Defendant

Adversary Proceeding No. L-91-0243-C

JUDGMENT

The issues of this proceeding having been duly considered by the Honorable Irvin N. Hoyt, United States Bankruptcy Judge, and a decision having been reached without trial or hearing,

IT IS ORDERED AND ADJUDGED: that plaintiff's Motion for Sanctions is granted. Judgment is entered in favor of plaintiff in the sum of \$125,000 together with interest and court costs as by law provided. This judgment shall be and is hereby declared to be nondischargeable in any bankruptcy proceeding.

[Seal of the U.S. Bankruptcy Court] Date of Issuance: March 29, 1993

BARBARA A. EVERLY Clerk of Bankruptcy Court

By: Muca a Holay Deputy Clerk

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Copy to: Frank Baron and Jef Sar; Rodney Wright U.S. Trustee this April 1, 1993 mg

I Certify that this is a true Co. ..

PATRICIA MERRITT

CLERK U.S. BANKRUPTCY COURT

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Juanita Leafgreen

Deputy Clerk

IN THE UNITED STATES BANKRUPTCY COURT FOR THE NORTHERN DISTRICT OF IOWA WESTERN DIVISION

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IN RE:)	CHAPTER 7 BANKRUPTCY NO. L-91-01588C
RODNEY L. WRIGHT,)	BANKKOFICI NO. E-91-013880
Debtor.)	
JOHN W. VAN DYKE, JR.,)	ADVERSARY NO. L-91-0243C
Plaintiff,)	<u>ORDER</u>
VS.	,)	
RODNEY L. WRIGHT,)	
Defendant.)	
	000	

This matter comes before the Court pursuant to Plaintiff's Motion for Sanctions. No resistance has as yet been filed.

The facts of this Motion for Sanctions before the Court are clearly set forth in the Motion. Prior to the filing of this bankruptcy, Defendant, Rodney L. Wright, was served with a Subpoena requiring his presence at a deposition to be held in Cedar Rapids, Iowa, on May 2, 1991. In addition to the Subpoena which was personally served on Mr. Wright, a Notice of Deposition was also served upon his attorney of record. Mr. Wright appeared but refused to give testimony. Ultimately, a monetary judgment was rendered against him as a sanction. This judgment remains

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Clerk
U.S. Eankruptcy Court

Date MAR

unpaid.

Mr. Wright thereafter filed bankruptcy and the present adversary proceeding was commenced. In connection with this adversary proceeding, a Notice of Deposition of Mr. Wright, was served upon his attorney setting forth the deposition date of September 23, 1992.

Mr. Wright's attorney forthwith moved for a protective order quashing the Notice of Deposition and delaying the deposition. That Motion was granted. He also moved to withdraw.

Thereafter, an Order setting a status conference herein was sent out on December 8, 1992. That Order required that a party not represented by counsel shall appear in person. However, Mr. Wright did not appear.

On January 28, 1993, a telephonic status conference was held again upon notice to Mr. Wright. Mr. Wright failed to appear. The Order entered at that time granted the Motion to Withdraw as Counsel filed by Mr. Wright's prior attorney and set forth that Attorney Sar would file a notice of a deposition date. This Order was mailed to Mr. Wright.

Attorney Sar did send to Mr. Wright a Notice of Deposition setting a deposition date of March 11, 1993. Mr. Wright failed to appear. He filed no Motion to Quash or made any contacts with the Court or the opposing party seeking any change in the time of the deposition.

Rule 37(d) of the Federal Rules of Civil Procedure

provides that if a party fails to appear before the officer who is to take a deposition after being served with proper notice, the Court may make such orders in regard to the failure as are just and among other may take any action authorized under Paragraphs (A), (B), and (C) of sub-division (b) (2) of Rule 37.

The Court finds that a judgment by default against the disobedient party is the most appropriate remedy herein. The Court further finds that the Complaint filed herein sets foth multiple prayers for judgment, the smallest of which is prayer for a non-dischargeable judgment against the Defendant/Debtor in the sum of \$125,000.00 together with interest as by law provided and court costs. The Court determines that this is an appropriate sanction.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff's Motion for Sanctions is granted. The Clerk of Court shall be and hereby directed to enter judgment in favor of the Plaintiff in the sum of \$125,000.00 together with interest and court costs as by law provided. Such judgment shall be and is hereby declared to be non-dischargeable in any bankruptcy proceeding.

Dated this 4 day of MKK, 1993.

THE COURT

Irvin N. Hoyt,

Chief Bankruptcy Judge

NOTICE OF ENTRY
Personnel to 88 9022

Entered on Dockets 3-2293 By: NU

In re

United	States	Bankruptcy	Court
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United S	tates Bankrı	mtcy Court 🗽	APP - 8 100
NORTHERN	District of	WA SAD.	8 1993
In re RODNEY L. WRIGHT,		Bankruptcy Case No.	RAA EVERLY, CLERK
JOHN W. VAN DYKE, JR.,	Debtor		CLEAK
OCIEV W. VAN DIRE, UR.,	Plaintiff		
RODNEY L. WRIGHT	Defendant	Adversary Proceeding L-91-0243-C	No.

BILL OF COSTS

Notice is given that the following Bill of Costs will be presented to the bankruptcy clerk at the following place and time:

Address 800 800 The Center, 425 Second St.SE P. O. Box 74890 Cedar Rapids, IA 52407

Judgment was entered in the above entitled action on March 19, 1993 against	Rodney L. Wright
(date)	(date)
The clerk of the bankruptcy court is requested to tax the following as costs:	100.00
Fees of the clerk	\$ 120.00
Fees for service of summons and complaint	\$
Fees of the court reporter for any and all part of the transcript necessarily obtained the case	for use in \$ 37.80
Fees and disbursements for printing	
Fees for witnesses (itemized on reverse)	\$
Fees for exemplifications and copies of papers necessarily obtained for use in this case	\$
Docket fees under 28 U.S.C. § 1923	
Costs incident to taking of depositions	\$
Costs as shown on Mandate of appellate court	\$
Other costs [Please itemize]	\$
	\$
	\$
TO	1AL \$ 157.80
DECLARATION	
I, attorney for John W. Van Dyke, Jr.	declare under penalties of perjury that the
(name of party)	
foregoing costs are correct and were necessarily incurred in this action, that the se	rvices for which fees have been charged were
actually and necessarily performed, and that a copy of this Bill of Costs was mailed	ed this day with postage fully prepaid to.
Name and Address of Judgment Debtor Rodney L. Wright	
3629 Timberline Drive NE	
Cedar Rapids, Iowa 52402	
	3 9
	7.6 (2.7)
Date	Signature of Attorney
COSTS A DE TA VED IN THE FOLLOWING AMOUNT AND INCLUDED IN T	HE IUDGMENT: \$157 80

BARBARA A. EVERLY

April 16, 1993

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